

RD AN No. 3664 (1980-D)  
May 15, 2001

**TO:** Rural Development State Directors,  
Rural Development Managers, and  
Community Development Managers

**ATTN:** Rural Housing Program Directors and  
State Environmental Coordinators

**FROM:** James C. Alsop                   *(Signed by Obediah G. Baker Jr.)* for  
Acting Administrator  
Rural Housing Service

**SUBJECT:** Environmental Compliance  
Guaranteed Rural Housing Program

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice (AN) is to answer frequently asked questions regarding application of environmental requirements to the guaranteed rural housing program and to clarify applicable sections of RD Instruction 1940-G, "Environmental Program," and RD Instruction 1980-D, "Rural Housing Loans."

**COMPARISON WITH PREVIOUS AN:**

This AN is a reissue of RD AN No. 3537 (1980-D), dated May 1, 2000, which expired May 31, 2001.

**IMPLEMENTATION RESPONSIBILITIES:**

The guaranteed rural housing program is subject to the environmental policies and procedures outlined in RD Instruction 1940-G. This is clearly stated in RD Instruction 1940-G, section 1940.301 (h), and in RD Instruction 1980-D, section 1980.316. Even though proposals under the

EXPIRATION DATE:  
May 31, 2002

FILING INSTRUCTIONS:  
Preceding RD Instruction 1980-D

guaranteed rural housing program will normally qualify as categorical exclusions, such exclusions are not automatic. There are a number of environmental requirements which must be recognized and understood.

A proposal to purchase or construct a single family house is listed in RD Instruction 1940-G, section 1940.310, as a categorical exclusion. However, this does not mean that such a proposal will always be categorically excluded, nor does it mean that the Agency has no environmental review to perform. For categorical exclusions, the National Environmental Policy Act (NEPA) requires the Agency to provide a mechanism for identifying when extraordinary circumstances exist, that is, the Agency needs to be able to identify when a proposal, listed as a categorical exclusion, does have a potential for environmental impact. Form RD 1940-22, "Checklist for Categorical Exclusions," is designed to serve this purpose. It alerts the preparer to the presence of any protected environmental resources which the proposal may have the potential to impact. If the potential for impact exists, then the proposal loses its categorical exclusion status and Form RD 1940-22 instructs the preparer to proceed with a modified Class I assessment and to address the potential impacts in accordance with applicable environmental law. Refer to the instructions on Form RD 1940-22 and to RD Instruction 1940-G, section 1940.317(g). If you are uncertain on how to prepare modified Class I assessments, you should contact your State Environmental Coordinator promptly and request training.

Responsibility for compliance under NEPA rests with the federal agency, not the guaranteed lender. The Agency must complete the appropriate level of environmental review and must use adequate and reliable information in so doing. Guaranteed lenders have the responsibility to become familiar with federal environmental requirements and to cooperate with the Agency in the collection of environmental data and in the resolution of potential environmental problems.

NEPA and many other federal environmental laws, Executive Orders, and departmental regulations apply only to federal agencies and to the activities of federal agencies; therefore, few guaranteed lenders can be expected to be completely familiar with the Agency's requirements in this area. The Agency can help the lenders receive adequate environmental training so they can effectively collect data, identify potential environmental problems, and reduce the probability of unacceptable applications. Rural Housing Program Directors should ensure that such training is provided by the State Environmental Coordinator as a part of regularly scheduled training for guaranteed lenders.

Information necessary to complete the environmental review may be obtained by the Agency in a variety of ways. Every office should have an environmental library containing, at a minimum, a copy of the State's Natural Resources Management Guide, plus a complete set of floodplain maps and soil surveys for the office jurisdiction. Any office which does not have these documents or is unfamiliar with how to use and interpret them, should contact their State Environmental Coordinator for assistance. Additional information may be acquired from technical experts in other Federal and State agencies, as well as from the lender, the lender's client, the site appraiser, or through a site visit made by the Agency. It is important to recognize that under NEPA, the

Agency must independently evaluate environmental information submitted by or on behalf of the applicant (the lender), assure itself of the accuracy of the information, and make an independent decision based thereon. It is not the intent of NEPA that acceptable work be redone, but that it be verified by the Agency. For example, an appraiser states that a particular site is not in the floodplain, but no floodplain map is attached. The statement cannot be accepted by the Agency as fact. It is the Agency's responsibility to examine the floodplain maps, determine whether or not the site is in the floodplain, and act accordingly.

NEPA requires that environmental information be made available to public officials and to citizens before decisions are made and before actions are taken. NEPA's primary objectives are to ensure that public officials (the Agency) make informed decisions, decisions which are based on an understanding of the environmental consequences of a proposed action, and that public officials formulate actions which protect, restore and enhance environmental quality. The environmental review document is the management tool which the Agency's loan approval official is expected to use to make such informed decisions and to formulate appropriate actions. Therefore, the environmental review must be completed early, prior to the Agency's first major decision on whether or not to participate in the proposal. In the case of guaranteed loans, the environmental review must be completed prior to the issuance of a conditional commitment for guarantee by the Agency. Refer to RD Instruction 1940-G, sections 1940.301(d) and 1940.315(b) and to RD Instruction 1980-D, section 1980.354.

RD Instruction 1980-D, section 1980.354, states that the Agency "will notify the lender of the approval status of the application or the reason the request cannot be processed within 48 hours of receipt." This does not mean that a decision to approve or not to approve must be made within 48 hours. It does establish a goal for processing requests and it does mean that the Agency is expected to notify the lender of any reasons why a decision must be delayed beyond the 48 hours. Normally, a proposal for the purchase or construction of a single family house will qualify as a categorical exclusion, and the necessary environmental review can be completed within the 48 hour time period. However, some proposals will not qualify as categorical exclusions and will need an environmental assessment. For other proposals, the Agency may need to obtain further environmental information and may not be able to complete the appropriate level of environmental review within 48 hours. Section 1980.354 recognizes this fact and simply states that the Agency should inform the lender of the circumstances of the delay. If necessary, the Agency should request the lender's assistance in resolving the problem. A preparer who is actively attempting to resolve an environmental issue and needs more than 48 hours to do so should not be penalized for failing to meet the 48 hour goal; likewise, environmental requirements should not be used as an excuse for failing to act promptly on application requests.

We encourage you to work closely with your State Environmental Coordinator and with your guaranteed lenders to ensure that environmental compliance is integrated effectively and efficiently with the loan processing and servicing activities of the guaranteed rural housing program. Should you have additional questions on this AN or on other environmental issues, please call Susan G. Wieferich at 720-9647 or Brian LaFlamme at 720-9656, Program Support Staff, Rural Housing Service.